

**UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF VIRGINIA  
RICHMOND DIVISION**

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In re: : Chapter 11  
:  
CIRCUIT CITY STORES, INC., et al., : Case No. 08-35653  
:  
: Jointly Administered  
:  
Debtors. :  
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:  
:  
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**OBJECTION BY VORNADO GUN HILL ROAD, L.L.C.  
TO THE PROPOSED CURE AMOUNT  
[DKT. NO. 413]**

Vornado Gun Hill Road, L.L.C. (the “Landlord”) hereby submits this objection (the “Objection”) to the Motion (the “Motion”) for Orders Approving (i) Bidding and Auction Procedures for the Sale of Unexpired Nonresidential Real Property Leases for Closing Stores, (ii) Setting a Sale Hearing Date, and (iii) Authorizing and Approving (a) Sale of Certain Nonresidential Real Property Leases Free and Clear of Liens, Claims, and Encumbrances, (b) Assumption and Assignment of Certain Unexpired Nonresidential Property Leases, and

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(c) Lease Rejection Procedures [Docket # 413] of the above captioned debtors (collectively, the “Debtors”), and respectfully states as follows:

**Background**

1. On November 10, 2008 (the “Petition Date”), the Debtors filed voluntary petitions for relief under chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”).

Pursuant to sections 1107 and 1108 of the Bankruptcy Code, the Debtors continue to operate their businesses and manage their property as debtors in possession.

2. Pursuant to a lease agreement, dated August 23, 2006, as amended (the “Lease”), Circuit City Stores, Inc. (the “Tenant”), one of the Debtors, leased from the Landlord certain commercial retail space located at 1770-1778 Gun Hill Road, Bronx, New York (the “Premises”).

3. On November 25, 2008, the Debtors filed with the Court the Motion, whereby the Debtors are seeking, among other things, to sell certain of their assets and assume and/or assign certain unexpired leases and executory contracts.

4. In connection with the Motion, the Debtors filed an Exhibit B to the proposed order, which includes a list of the amounts necessary to cure any and all defaults under certain of the Debtors’ non-residential real property leases, including the Lease. The Premises are identified as Location # 3778 on Exhibit B. Exhibit B states the proposed cure amount for the Lease is \$94,330.00 (the “Proposed Cure Amount”).

**Objection**

5. Prior to the assumption of the Lease, the Debtors are required, pursuant to section 365(b)(1) of the Bankruptcy Code, to cure, or provide adequate assurance that the Debtors will promptly cure, all outstanding defaults under the Lease.

6. A review of the books and records of the Landlord with respect to the Lease reveals that, as of December 1, 2008, an aggregate amount of no less than \$191,088.16 (the “Actual Cure Amount”) remains outstanding as the cure amount due under the Lease.<sup>1</sup> A detailed schedule, attached hereto as Exhibit A, sets forth the amounts currently owed to the Landlord. The Actual Cure Amount represents a difference of \$96,758.16 from the Proposed Cure Amount of \$94,330.00 that is listed on Exhibit B of the Debtors’ proposed order with respect to the Lease.

7. By submitting this objection to the Debtors’ Proposed Cure Amount, the Landlord does not waive and hereby reserves any and all objections to any proposed assumption and assignment of leases by the Debtors including, without limitation, objection to the proposed use of the property, the Debtors’ failure to provide adequate assurance of future performance pursuant to section 365(b)(3) of the Bankruptcy Code and/or the form of any proposed order. The Landlord also expressly reserves the right to amend, supplement and/or modify the Actual Cure Amount represented herein for any reason.

8. For the foregoing reasons, Landlord respectfully submits this Objection to the Motion and requests that the Debtors modify the Proposed Cure Amount due in respect of the Lease to reflect the Actual Cure Amount due and owing under the Lease, including any and all additional amounts due under the Lease on account of any mechanics’ liens or other costs, expenses or fees.

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<sup>1</sup> Landlord reserves the right to amend this Objection in order to reflect any additional amounts that are outstanding, or that become outstanding, under the Lease on account of attorneys’ fees, interest, repair and maintenance costs, indemnification obligations or any other costs, expenses or fees as well as any and all additional amounts that are due or become due under the Lease on account of any mechanics’ liens that may have been, or may be, filed.

Dated: New York, New York  
December 10, 2008

/s/ William A. Gray

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**Certificate of Service**

I hereby certify that on December 10, 2008, a true and complete copy of the foregoing was filed and served using the Court's ECF System, and was sent by first class mail, postage prepaid to the parties set forth below:

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